

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY APRIL 19, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2390**

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**Introduced by Committee on Utilities and Commerce (Levine  
(Chair), Bogh (Vice Chair), Blakeslee, Cohn, De La Torre,  
Jerome Horton, Montanez, and Ridley-Thomas)**

February 23, 2006

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An act to amend Sections 1731, 1756, 1768, and 1769 of the Public Utilities Code, relating to the public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2390, as amended, Committee on Utilities and Commerce. Public Utilities Commission: rehearings and judicial review.

(1) Existing law, after any order or decision has been made by the Public Utilities Commission, authorizes any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, to apply for a rehearing with respect to any matter determined in the action or proceeding and specified in the application for rehearing. Existing law prohibits a cause of action arising out of any order or decision of the commission from accruing in a court to a corporation or person unless the corporation or person has filed an application to the commission for a rehearing within a specified amount of time after the date of issuance of an order or decision. Existing law defines date of issuance, for the purposes of these provisions, to mean the date on which the

commission mails the order or decision to the parties to the action or proceeding.

This bill would require the commission to notify the parties of the issuance of an order or decision by either mail or, *with the consent of an affected party*, by electronic transmission, as specified. ~~The bill would require the commission to adopt rules to implement this provision.~~ The bill would revise the definition of “date of issuance” to mean the mailing or electronic transmission date that is stamped on the official version of the order or decision.

(2) Existing law generally authorizes an aggrieved party to petition for a writ of review of an order or decision of the commission within 30 days after the commission issues its decision denying an application for a rehearing, or, if the commission grants the application, within 30 days after the commission issues its decision on rehearing. Existing law specifies that the issuance of a decision or the granting of an application, for the purposes of these provisions, is to be construed to have occurred on the date on which the commission mails the decision or the granting of the application to the parties to the action or proceeding. Existing law requires the petition for review to be served on the executive director of the commission.

This bill would specify that the issuance of a decision or the granting of an application is to be construed to have occurred on the date of issuance, as defined, for the purposes of these provisions and certain other provisions setting forth judicial review procedures for specified orders or decisions of the commission. The bill, in addition, would require the petition for review to be served on the general counsel of the commission.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1731 of the Public Utilities Code is  
2 amended to read:

3 1731. (a) The commission shall set an effective date when  
4 issuing an order or decision. The commission may set the  
5 effective date of an order or decision prior to the date of issuance  
6 of the order or decision.

7 (b) (1) After any order or decision has been made by the  
8 commission, any party to the action or proceeding, or any

stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property.

(2) The commission shall notify the parties of the issuance of an order or decision by either mail or electronic transmission. Notification of the parties may be accomplished by one of the following methods:

(A) Mailing the order or decision to the parties to the action or proceeding.

~~(B) Transmitting an electronic copy of the official version of the order or decision to the parties to the action or proceeding who have provided an electronic mail address to the commission.~~

~~(C) Transmitting a link to an Internet Web site where the official version of the order or decision is readily available to the parties to the action or proceeding who have provided an electronic mail address to the commission.~~

~~(3) The commission may adopt rules under its Rules of Practice and Procedure to implement paragraph (2).~~

*(B) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting an electronic copy of the official version of the order or decision to the party if the party has provided an electronic mail address to the commission.*

*(C) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting a link to an Internet web site where the official version of the order or decision is readily*

1 *available to the party if the party has provided an electronic mail*  
2 *address to the commission.*

3 ~~(4)–~~

4 (3) For the purposes of this article, “date of issuance” means  
5 the mailing or electronic transmission date that is stamped on the  
6 official version of the order or decision

7 (c) No cause of action arising out of any order or decision of  
8 the commission construing, applying, or implementing the  
9 provisions of Chapter 4 of the Statutes of the 2001–02 First  
10 Extraordinary Session that (1) relates to the determination or  
11 implementation of the department’s revenue requirements, or the  
12 establishment or implementation of bond or power charges  
13 necessary to recover those revenue requirements, or (2) in the  
14 sole determination of the Department of Water Resources, the  
15 expedited review of order or decision of the commission is  
16 necessary or desirable, for the maintenance of any credit ratings  
17 on any bonds or notes of the department issued pursuant to  
18 Division 27 (commencing with Section 80000) of the Water  
19 Code or for the department to meet its obligations with respect to  
20 any bonds or notes pursuant to that division, shall accrue in any  
21 court to any corporation or person unless the corporation or  
22 person has filed an application with the commission for a  
23 rehearing within 10 days after the date of issuance of the order or  
24 decision. The Department of Water Resources shall notify the  
25 commission of any determination pursuant to paragraph (2) of  
26 this subdivision prior to the issuance by the commission of any  
27 order or decision construing, applying, or implementing the  
28 provisions of Chapter 4 of the Statutes of the 2001–02 First  
29 Extraordinary Session. The commission shall issue its decision  
30 and order on rehearing within 20 days after the filing of the  
31 application.

32 SEC. 2. Section 1756 of the Public Utilities Code is amended  
33 to read:

34 1756. (a) Within 30 days after the commission issues its  
35 decision denying the application for a rehearing, or, if the  
36 application was granted, then within 30 days after the  
37 commission issues its decision on rehearing, or at least 120 days  
38 after the application is granted if no decision on rehearing has  
39 been issued, any aggrieved party may petition for a writ of  
40 review in the court of appeal or the Supreme Court for the

1 purpose of having the lawfulness of the original order or decision  
2 or of the order or decision on rehearing inquired into and  
3 determined. If the writ issues, it shall be made returnable at a  
4 time and place specified by court order and shall direct the  
5 commission to certify its record in the case to the court within the  
6 time specified.

7 (b) The petition for review shall be served upon the executive  
8 director and the general counsel of the commission either  
9 personally or by service at the office of the commission.

10 (c) For purposes of this section, the issuance of a decision or  
11 the granting of an application shall be construed to have occurred  
12 on the date of issuance, as defined in paragraph (4) of  
13 subdivision (b) of Section 1731.

14 (d) The venue of a petition filed in the court of appeal pursuant  
15 to this section shall be in the judicial district in which the  
16 petitioner resides. If the petitioner is a business, venue shall be in  
17 the judicial district in which the petitioner has its principal place  
18 of business in California.

19 (e) Any party may seek from the Supreme Court, pursuant to  
20 California Rules of Court, an order transferring related actions to  
21 a single appellate district.

22 (f) For purposes of this section, review of decisions pertaining  
23 solely to water corporations shall only be by petition for writ of  
24 review in the Supreme Court, except that review of complaint or  
25 enforcement proceedings may be in the court of appeal or the  
26 Supreme Court.

27 (g) No order or decision arising out of a commission  
28 proceeding under Section 854 shall be reviewable in the court of  
29 appeal pursuant to subdivision (a) if the application for  
30 commission authority to complete the merger or acquisition was  
31 filed on or before December 31, 1998, by two  
32 telecommunications-related corporations including at least one  
33 which provides local telecommunications service to over one  
34 million California customers. These orders or decisions shall be  
35 reviewed pursuant to the Public Utilities Code in existence on  
36 December 31, 1998.

37 SEC. 3. Section 1768 of the Public Utilities Code is amended  
38 to read:

39 1768. The following procedures shall apply to judicial review  
40 of an order or decision of the commission interpreting,

1 implementing, or applying the provisions of Chapter 4 of the  
2 Statutes of the 2001–02 First Extraordinary Session that (1)  
3 relates to the determination or implementation of the revenue  
4 requirements of the Department of Water Resources or the  
5 establishment or implementation of bond or power charges  
6 necessary to recover those revenue requirements, or (2) in the  
7 sole determination of the department, the expedited review of an  
8 order or decision of the commission is necessary or desirable, for  
9 the maintenance of any credit ratings on any bonds or notes of  
10 the department issued pursuant to Division 27 (commencing with  
11 Section 80000) of the Water Code or for the department to meet  
12 its obligations with respect to any bonds or notes pursuant to that  
13 division:

14 (a) Within 30 days after the commission issues its order or  
15 decision denying the application for a rehearing, or, if the  
16 application is granted, then within 30 days after the commission  
17 issues its decision on rehearing, any aggrieved party may petition  
18 for a writ of review in the California Supreme Court for the  
19 purpose of determining the lawfulness of the original order or  
20 decision or of the order or decision on rehearing. If the writ  
21 issues, it shall be made returnable at a time and place specified  
22 by court order and shall direct the commission to certify its  
23 record in the case to the court within the time specified. No order  
24 of the commission interpreting, implementing, or applying the  
25 provisions of Chapter 4 of the Statutes of the 2001–02 First  
26 Extraordinary Session shall be subject to review in the courts of  
27 appeal.

28 (b) The petition for review shall be served upon the executive  
29 director and the general counsel of the commission either  
30 personally or by service at the office of the commission.

31 (c) For purposes of this section, the issuance of a decision or  
32 the granting of an application shall be construed to have occurred  
33 on the date of issuance, as defined in paragraph (4) of  
34 subdivision (b) of Section 1731.

35 (d) All actions and proceedings under this section and all  
36 actions or proceedings to which the commission or the people of  
37 the State of California are parties in which any question arises  
38 under this section, or under or concerning any order or decision  
39 of the commission under this section, shall be preferred over, and  
40 shall be heard and determined in preference to, all other civil

1 business except election causes, irrespective of position on the  
2 calendar.

3 (e) The provisions of this article apply to actions under this  
4 section to the extent that those provisions are not in conflict with  
5 this section.

6 SEC. 4. Section 1769 of the Public Utilities Code is amended  
7 to read:

8 1769. The following procedures shall apply to judicial review  
9 of an order or decision of the commission interpreting,  
10 implementing, or applying the provisions of Article 5.6  
11 (commencing with Section 848) of Chapter 4:

12 (a) Within 10 days after the commission issues its order or  
13 decision denying the application for a rehearing, or, if the  
14 application is granted, then within 10 days after the commission  
15 issues its decision on rehearing, any aggrieved party may petition  
16 for a writ of review in the California Supreme Court for the  
17 purpose of determining the lawfulness of the original order or  
18 decision or of the order or decision on rehearing. If the writ  
19 issues, it shall be made returnable at a time and place specified  
20 by court order and shall direct the commission to certify its  
21 record in the case to the court within the time specified. No order  
22 of the commission interpreting, implementing, or applying the  
23 provisions of Article 5.6 (commencing with Section 848) of  
24 Chapter 4 shall be subject to review in the courts of appeal.

25 (b) The petition for review shall be served upon the executive  
26 director and the general counsel of the commission either  
27 personally or by service at the office of the commission.

28 (c) For purposes of this section, the issuance of a decision or  
29 the granting of an application shall be construed to have occurred  
30 on the date of issuance, as defined in paragraph (4) of  
31 subdivision (b) of Section 1731.

32 (d) The Legislature hereby declares that if a writ issues in an  
33 action under this section, delay in the determination of the writ  
34 will delay implementation of a securitized financing, thereby  
35 diminishing approximately \$1 billion of total savings to Pacific  
36 Gas and Electric Company's ratepayers that might be achieved if  
37 a securitized financing were implemented immediately.  
38 Therefore, to maximize ratepayer benefits, review under this  
39 section should be expedited.

1 (e) The provisions of this article apply to actions under this  
2 section to the extent that those provisions are not in conflict with  
3 this section.

4 (f) This section shall remain in effect only until January 1,  
5 2008, and as of that date is repealed, unless a later enacted  
6 statute, that is enacted before January 1, 2008, deletes or extends  
7 that date.